IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6365 OF 2005

Abdul Kadar Batki .. Applicant
Versus
State of Maharashtra .. Respondent

WITH

CRIMINAL APPLICATION NO.6366 OF 2005

Ismail Imran Sayed @ Babajan
@ Kasam .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.Khan Abdul Wahab for applicants
Mr.K.V.Saste, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 5th December 2005.

P.C.

. On 21st November 2005, I had called for a report from Special Judge, trying MCOCA Special Case No.1/2001. Report has been received by this

Court. In the report presented on 1st December 2005, the learned Special Judge has stated thus:-

> ". Since it is a fact that though the arguments on behalf of the prosecution were heard long back, it has not been possible to make any further progress in the matter, I think it proper to mention the reasons for the same, though His Lordship has been kind enough not to seek any explanation about the pendency. It has not been possible to make any further progress in the matter, as the undersigned is busy with the trial of a matter, popularly known as "Best Backery re-trial", transferred from the State of Gujarat and made time-bound by the Hon'ble Supreme Court of India. The said trial has commenced on 04/10/2004. Since then, it has been proceeding on day to day basis and is required to be

completed by 31/12/2005. The record of the oral evidence and the examination of the accused persons runs into more than 6,000/- typewritten pages, apart from the documentary evidence and the articles produced before the Court.

. The M.C.O.C. Special Case No.1/01 is also a very bulky matter with 19 accused. The record of oral evidence is running into 1200 typewritten pages. Additionally, 145 documents and 168 articles have been tendered in evidence. After the "Best Backery re-trial" started, no time could be given for the M.C.O.C. Special Case No.1/01 and unfortunately, the matter has remained pending. The basic reason for the pendency, is the difficulty in simultaneously concentrating on two huge and bulky matters at the same time."

2. The learned Judge has further stated in the report that time for disposal of the present matter was extended till 31st March 2005. He has observed that the trial ongoing is a Supreme Court expedited matter and would be over by the end of this year and he would endeavour to dispose of M.C.O.C Special case No.1/01 in the month of February 2006.

3. Considering the above, learned Advocate for applicants does not press the present applications but seeks liberty to file fresh applications for the same reliefs in case the trial is not concluded as assured by the learned Special Judge in the above report. Needless to state that the application to be then made would be disposed of by the learned Judge on its own merits and in accordance with law, uninfluenced by the disposal of the earlier applications.

(S.C.DHARMADHIKARI, J)